

Ministry of Infrastructure

Infrastructure Ontario

Building Broadband Faster in Ontario

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Part 1: Legislative Framework



Current Broadband Legislative Framework

A robust legislative and regulatory framework was established to expedite the delivery of designated broadband projects to support Ontario's commitment to deploy high speed internet to all communities by the end of 2025.

Ministry of Infrastructure

- The ***Building Broadband Faster Act, 2021 (BBFA)*** addresses ongoing barriers to deployment by setting out requirements for electricity distributors or transmitters, municipalities, and locates.
- The BBFA grants the Minister of Infrastructure **the authority to reduce barriers** to deployment of broadband-related infrastructure and require LDCs and municipalities to complete work necessary for designated broadband projects.

Ministry of Energy

- Ontario Regulation 410/22 under the ***Ontario Energy Board Act, 1998 (OEBA)*** sets out timeline and process requirements for local distribution companies (LDCs) to provide telecom providers access to electricity infrastructure for broadband deployment.
- O. Reg. 410/22 also sets out the dispute resolution authority under the Ontario Energy Board (OEB).

Ministry of Public and Business Service Delivery

- The ***Ontario Infrastructure Notification System Act, 2012 (One Call Act)*** was amended to foster greater efficiency in the 'locates' process for designed broadband projects. These amendments require the use of a **dedicated locator** for designated broadband projects, and regulations under the OEBA.

Current framework | BBFA

The *Building Broadband Faster Act* (BBFA) provides the Minister of Infrastructure with authorities to reduce broadband deployment barriers and expedite the delivery of provincially significant broadband projects.

- The BBFA sets out requirements for:
 - **Electricity distributors or transmitters** to comply with O. Reg. 410/22 requirements to complete work for broadband projects.
 - **Municipalities** to comply with timeline and process requirements set out in the Act.
 - **Locates** to be completed in compliance with requirements under the One Call Act.
- The BBFA also authorizes the Minister of Infrastructure to **issue notices and orders** to LDCs and municipalities that do not comply with their regulatory and legislative obligations to complete work for designated broadband projects.
- The Minister may also issue notices that **modify the terms of orders** issued by the OEB under O. Reg. 410/22. This authority would be used in **rare circumstances** where OEB orders pose risks to the government's 2025 broadband commitment.
- These authorities would serve as a **backstop** to ensure timely completion and allow the broadband stakeholders to proceed with greater speed and certainty. They are to be used in a **discretionary manner**.

1. Notices

For example, the Minister may issue [a s.4 notice](#) to an LDC to complete pole attachment work if the work has not been done within the timelines set out in **O. Reg 410/22**.

2. Orders

For example, the Minister may issue [a s.9 order](#) to the LDC or allow the proponent to complete this work, if an LDC has not completed the work.

Current framework | O. Reg. 410/22

O. Reg. 410/22 intends to ensure responsible and predictable behaviour by LDCs, as well as to promote efficiency to help achieve the government's 2025 broadband commitment.

- The regulation entails:
 - **Timelines and processes** for work on pole attachments
 - Requirement for LDCs to **use the BOW** in cases where ISPs elect to use the BOW for their project.
 - Authority to the **Ontario Energy Board** to respond to material deficiency disputes and other compliance issues.
- The regulation also provides a list of “**material deficiencies**” which are applicable reasons for why an LDC may temporarily pause their performance timelines.
- **Recent amendments to O. Reg. 410/22 were passed in March 2023 which:**
 - Shorten timelines for LDCs to grant ISPs permission to attach broadband infrastructure to electricity poles
 - Require LDCs to identify who will conduct necessary make ready work prior to attachment within 10 days of receiving a notice from the ISP of their intention to attach

Ontario Energy Board

- ISPs may apply to the OEB to resolve disagreements with LDCs about material deficiencies.
- For material deficiency disputes, the **OEB will issue an order** no later than 30 days after they have received sufficient information from the parties involved.
 - The order will detail the actions required to address the material deficiency and the timeline to execute and complete those actions.
- In addition, the OEB may **levy fines** against LDCs for contravention of O. Reg. 410/22.

Current framework | One Call Act

The One Call Act establishes the locates process in Ontario, administered by Ontario One Call, which is the administrative authority that helps to coordinate locate requests. Before an excavator starts a dig, One Call must be contacted to request the location of underground infrastructure.

Two Locate Models:

1. Standard: a model in which the One Call Member is required to complete a locate within 5 business days of receiving the request.
2. Dedicated: affected One Call Members and the Project Owner (i.e., ISP) agree on the use of a single locator for the duration of a project

The locates process was identified as a barrier to faster broadband deployment.

To address this, in 2022, BBFA amendments mirrored dedicated locator provisions of the One Call Act and required the use of a dedicated locator for certain projects in which a single locator is selected.



Amendments made to the One Call Act in 2022 established the ability for Ontario One Call to issue **administrative monetary penalties (AMPs)** against non-compliant members and excavators.

MOI has helped inform the One Call Act AMP regime, which has now come into effect as of April 1, 2023 as **O. Reg. 14/23**.

Proposed Amendments

In April 2023, the Ministry of Red Tape Reduction introduced the *Less Red Tape, Stronger Economy Act*, to help build on the government's efforts on reducing burden for businesses, not-for-profit organizations, municipalities, universities and colleges, school boards and hospitals.

As part of this red tape reduction package, MOI has included:

Proposed Amendments to the BBFA

- MOI is proposing to amend the BBFA to authorize the Minister of Infrastructure with regulation-making capabilities to:
 1. Enable more efficient collection of utility infrastructure data by clarifying the geographic location for where data is to be produced (**section 20.1**);
 2. Provide clarity on permissible delays for municipal permitting (**section 10.1**).
 - i.e. Development of municipal access agreements may not be treated as conditions of approval or material deficiencies for issuing a municipal service and right of way access requests.
- The proposed amendments would ensure that internet service providers (ISPs) can plan, design, and build high-speed internet projects as quickly as possible, optimize routing for projects and plan networks.
- Tools will exist to provide broadband stakeholders with support on the implementation of the proposed legislation and regulatory amendments, including the **Technical Assistance Team** and an updated version of the proposed third iteration of the **Building Broadband Faster in Ontario Guideline**.

Engagement

MOI has engaged with the **Association of Municipalities of Ontario (AMO)** on the proposed amendments regarding municipal access agreements (**section 10.1**).

AMO is supportive of the proposed changes and of using a collaborative approach to implement the proposed changes.

MOI will continue engaging with AMO via the AMO-MOI broadband technical working group and will prioritize developing specific resources to assist and support municipalities in addressing challenges related to municipal access agreements.

Part 2: Supporting Tools and Guidance



Building Broadband Faster in Ontario Guideline

The Guideline is a tool developed to reduce barriers, speed up broadband deployment and support the successful implementation of the broadband legislative and regulatory framework

- In addition to the proposed amendments, another measure included in the red tape reduction package is the proposed update to the **Building Broadband Faster in Ontario Guideline**.
- The Guideline was first publicly released in November 2021 and later updated in August 2022.
 - The proposed update to the Guideline would provide **greater clarity** and **improved guidance** to high-speed internet stakeholders on processes and timelines.
- Key proposed updates to the guideline would include:
 - Clarity on the Ministry of Transportation's efforts to speed up their permit process for provincially funded broadband projects.
 - Additional guidance on cost sharing for using electric infrastructure to build these projects.
 - A new process to help resolve disputes between parties and work with sectors to ensure that they comply with the laws and regulations that are helping to build broadband faster.
 - The dispute resolution process will include both an informal and formal stage, with stakeholders encouraged to resolve disputes in the informal stage through collaborative discussions with support from the Technical Assistance Team.
- The proposed changes are posted on the **Ontario Regulatory Registry until mid-May** and broadband stakeholders are welcome to provide feedback on the proposed amendments.

Dispute Resolution

Under the legislative and regulatory framework, there are mechanisms to ensure disagreements between parties do not result in impasses and delays to projects

- MOI, in partnership with IO, partner ministries and agencies, has developed a framework to resolve disputes, which includes processes for both informal and formal dispute resolution, to support the timely deployment of broadband.
 - The **Informal Process** will be led by the Technical Assistant Team (TAT), which will act as the first point of contact for disputes.
 - Unresolved disputes may move to the **Formal Process**, in which the Ontario Energy Board (OEB), Minister of Infrastructure, or Ontario Land Tribunal (OLT) may issue binding resolutions for disputes.
- In the Informal Process, TAT will engage disputing parties to facilitate meetings, mitigate conflicts, and make efforts to objectively support mutually agreeable resolutions.
 - TAT will also keep a record of all discussions to support next steps if parties remain at an impasse. If unable to resolve the dispute at the informal level, TAT may offer options for formal dispute resolution.
- Formal measures to resolve disputes are seen as a 'last resort'. Disputing parties are encouraged to seek informal resolutions using the TAT and the Broadband One Window, which will encourage faster and collaborative solutions.

Technical Assistance Team (TAT)

The TAT has been established to assist stakeholders that may have limited resources available to support the work required by AHSIP. The TAT provides technical and administrative assistance to stakeholders as well as works to improve communications and coordination to support the implementation of designated high-speed internet projects. The core services of the TAT are as following:



Permits and Approvals Coordination

Provide support related to permit applications such as reviewing applications for completeness, general coordination services, providing quality assurance and ensuring compliance with permit processes.



Broadband Stakeholder Support

Develop resources (e.g., FAQs, fact sheets, etc.) to assist stakeholders with understanding the Guideline and associated processes such as permitting and dispute resolution. Provide support through the BOW teleconference, virtual meetings, email or phone.



Disputes and Resolution Coordination

Provide early informal and non-legally binding support for the resolution of disputes, including on permitting issues, facilitate communication and coordination, and provide support related to the Guideline.

Broadband One Window (BOW) Platform

The BOW platform has been designed to address barriers and streamline coordination to deliver on Ontario's high-speed internet commitment. It facilitates embedding processes, templates and timelines to enhance information sharing and process coordination, leading to risk reduction and more collaboration amongst stakeholders. BOW addresses utility coordination needs (i.e., consistency, traceability, proactive management, and knowledge institutionalization) through a robust set of key functionalities that can also be leveraged for projects beyond broadband.

Key Functionalities of BOW

Data Sharing



A web portal accessible to all stakeholder maintains a single source of truth for project: latest analyses, data, project status and requests.

Reporting & Visualization



Dashboards and reports provide real-time access to project performance tracking and status reporting across the portfolio.

Workflow & Request Management



Stakeholder interaction managed using automated service delivery tools that ensure requests are managed in a timely basis.

Geospatial Analytics



Repository for geospatial data and mapping enabling users to access and extract relevant information in location-based analytics

Data Processing & Management



Embedded data ingestion and validation features enable rapid setup times and perpetual, automated delivery of solutions.

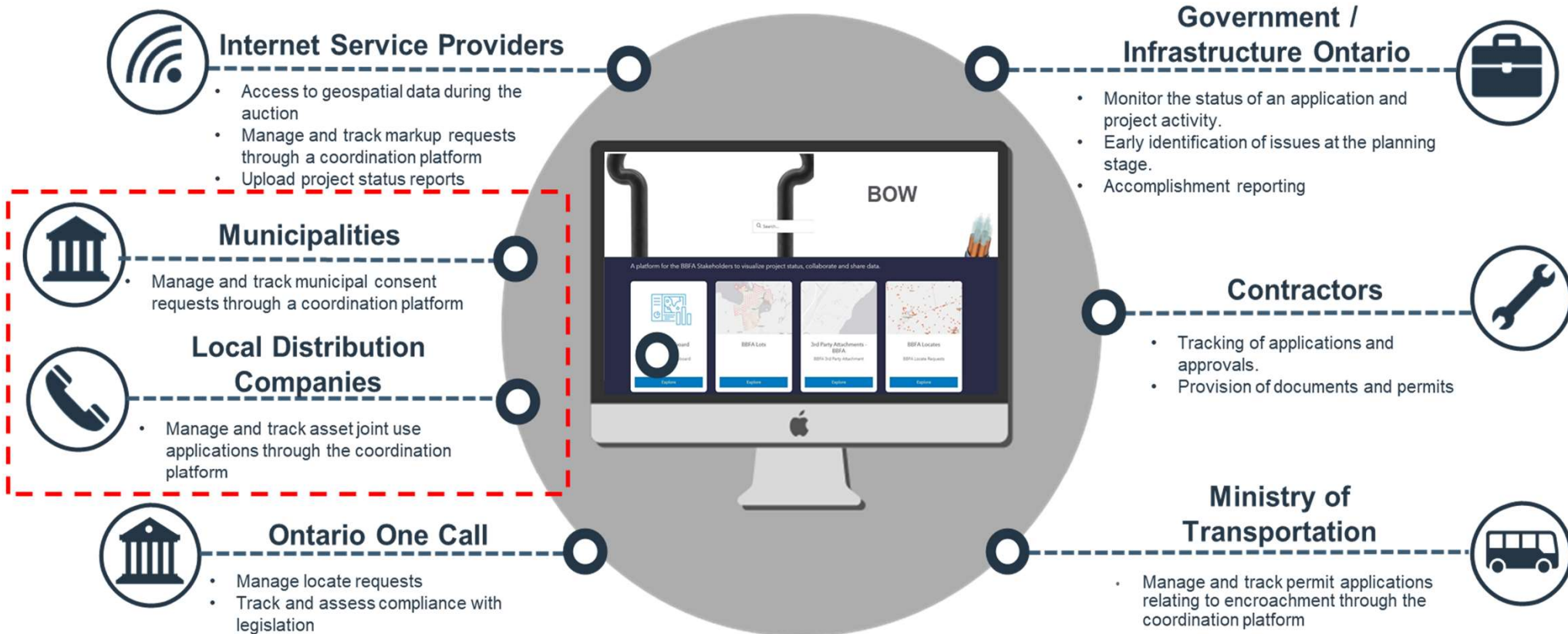
Advanced Analytics



Big data tools and data science helps track project performance and pre-empt potential recurring issues during the execution phase.

Major benefits of BOW for all stakeholders

BOW meets the needs of multiple stakeholder groups by providing data access, sharing information and documentation, streamlining approval processes and monitoring project progress. It will provide users with several key benefits:



 Legislative compulsion to use platform

TAT & BOW benefits for all proponents of designated broadband projects

The Ministry and IO are working together to expand TAT & BOW services to support the implementation of all designated broadband programs, including permit approval, technical & administrative support and dispute resolution. This will create a consistent user experience for ISPs.



TAT support requests on BOW

- Improved triaging of queries, disputes and other broadband support requests from delivery partners, improving turnaround time
- Centralized management of requests by the TAT team.
- Knowledge sharing from existing BOW support requests.



TAT permits coordination

- Coordinating with delivery partners on permits and approvals for all designated broadband programs will ensure
- Legislated timelines are met.
 - Knowledge sharing to maintain high quality permit applications, resulting in faster permit approvals.



Permitting through BOW

- Municipalities and LDCs will utilize one integrated platform to track legislative timelines and approve permit requests from ISPs for all designated broadband programs, saving time.
- Knowledge base of digital asset records.